



# MEDICAL MARIJUANA & ZONING

Presented By:  
Cascade County Planning Department

# Proposed Regulatory Changes

01

Definitions

02

Buffer  
requirements

03

Use expansion

# Changes to Definitions

## Current Definitions

- Medical Marijuana Dispensary:
  - A facility where marijuana and/or marijuana infused products are made available for medical purposes, in compliance with state, local, health and safety regulations.
- Medical Marijuana Provider:
  - A Montana resident 18 years of age or older who is authorized by the department to assist a registered cardholder as allowed under this part. (b) The term does not include the cardholder's treating physician or referral physician. MCA § 50-46-302(10).

## MT Medical Marijuana Act Definitions

- "Registered Premises" means the location at which a provider or marijuana-infused products provider: (a) has indicated that marijuana will be cultivated, chemical manufacturing will occur, or marijuana-infused products will be manufactured for registered cardholders; or (b) has established a dispensary for sale of marijuana or marijuana-infused products to registered cardholders.
- "Testing laboratory" means a qualified person, licensed by the department, who meets the requirements of 50-46-311 and: (a) provides testing of representative samples of marijuana and marijuana-infused products; and (b) provides information regarding the chemical composition, the potency of a sample, and the presence of molds, pesticides, or other contaminants in a sample.
- "Dispensary" means a registered premises from which a provider or marijuana-infused provider is approved by the department [DPHHS] to dispense marijuana and marijuana-infused products to a registered cardholder."
- (a)"Provider" means a person licensed by the department [DPHHS] to assist a registered cardholder as allowed under this part. (b) The term does not include a cardholder's treating physician or referral physician.

## Proposed Changes to Definitions

- REMOVE: Medical Marijuana Dispensary
- REMOVE: Medical Marijuana Provider
- ADD: Medical Marijuana Registered Premises:
  - A place, structure, and/or building where a provider or marijuana-infused products provider: (a) has indicated that marijuana will be cultivated, chemical manufacturing will occur, or marijuana-infused products will be manufactured for one or more registered cardholders; or (b) has established a dispensary for sale of marijuana or marijuana-infused products to one or more registered cardholders. "Provider," "marijuana-infused product," "marijuana-infused products provider," "chemical manufacturing," "dispensary," and "registered cardholder" all have the meanings defined in MCA § 50-46-302. **A registered premises is only allowed in a Heavy Industrial (I-2) District.**
    - **PB: A registered premises is allowed in a Heavy Industrial (I-2) District, Light Industrial (I-1) District, Commercial (C) District, Agricultural (A) District, and Mixed Use 20 (MU-20) District with the appropriate setbacks.**
- ADD: Medical Marijuana Testing Facility:
  - A building where one or more qualified persons, licensed by the Montana Department of Health and Human Services and meeting the requirements of MCA § 50-46-311 provides testing of small samples of marijuana and marijuana-infused products, and provides information regarding the chemical composition, the potency of a sample, and the presence of molds, pesticides, or other contaminants in a sample. "Marijuana" has the meaning defined in MCA § 50-32-101, and "marijuana-infused products" has the meaning defined in MCA § 50-46-302. **A testing facility is only allowed in a Heavy Industrial (I-2) District.**
    - **PB: A testing facility is only allowed in a Heavy Industrial (I-2) District, Light Industrial (I-1) District, Commercial (C) District, Agricultural (A) District, and Mixed Use 20 (MU-20) District.**

# Setback Requirements

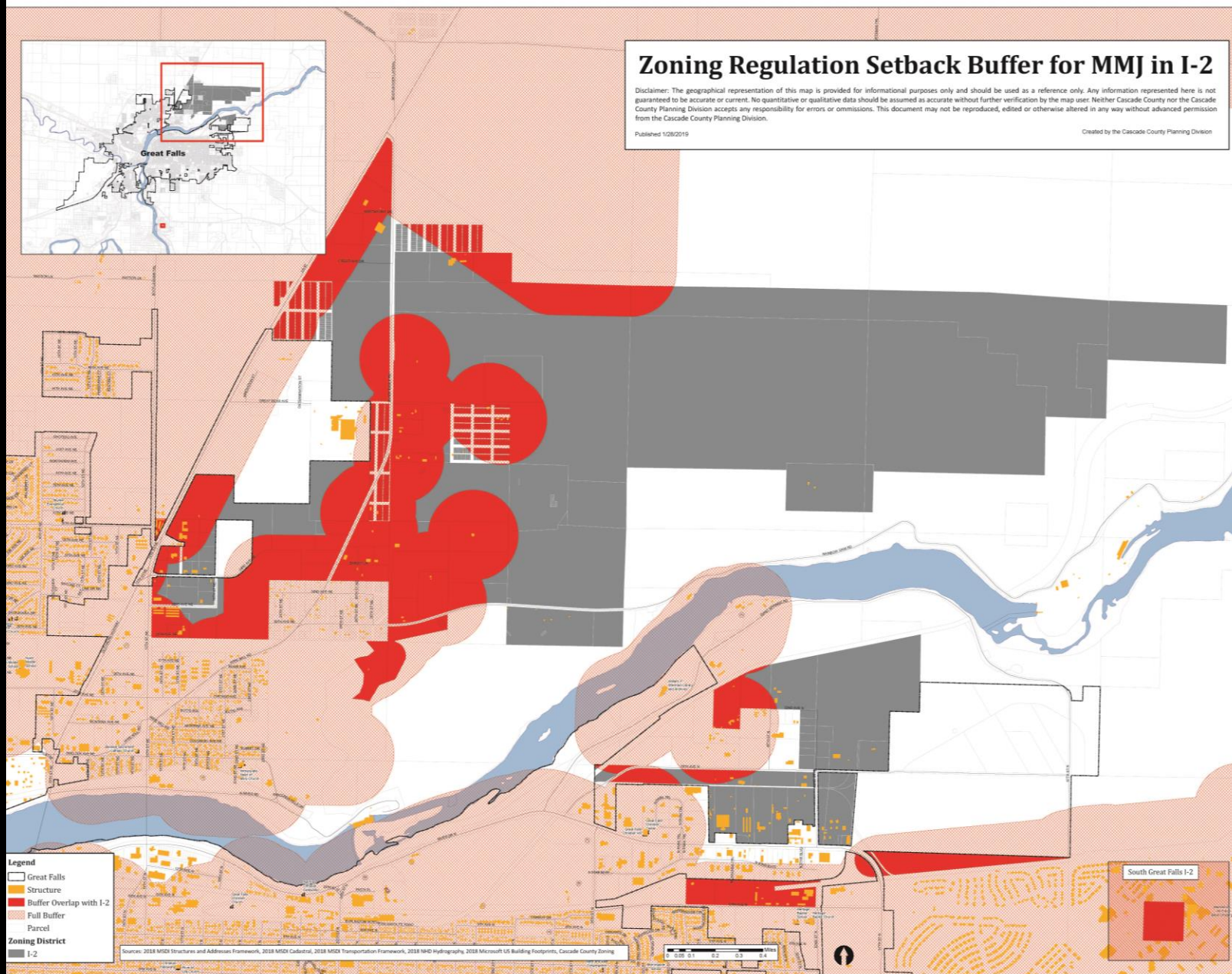
Current Regulations	MT Medical Marijuana Act	Proposed Changes
<p>CCZR § 8.19 Medical Marijuana Provider:</p> <p>Any facility may not be located within one-thousand (1000) feet of an existing residence, residential district, educational facility, worship facility, day care, or other facilities where minors gather.</p>	<p>MCA § 50-46-312(4)(a):</p> <p>The department [DPHHS] or state laboratory, as applicable, may deny a license or endorsement if the applicant's proposed registered premises or testing laboratory: (i) is not approved by local building, health, or fire officials; or (ii) <i>is within 500 feet of and on the same street as a building used exclusively as a church, synagogue, or other place of worship or as a school or postsecondary school other than a commercially operated school. The distance must be measured in a straight line from the center of the nearest entrance of the place of worship or school to the nearest entrance of the licensee's premises.</i></p>	<p>CCZR § 8.22 Medical Marijuana Setback:</p> <p>The proposed registered premise shall not be within 500 feet of and on the same street as a building used exclusively as a worship facility or educational facility. The distance must be measured in a straight line from the center of the nearest entrance of the worship facility or educational facility to the nearest entrance of the licensee's premises.</p>

# Alternative Proposal

## Buffer requirements:

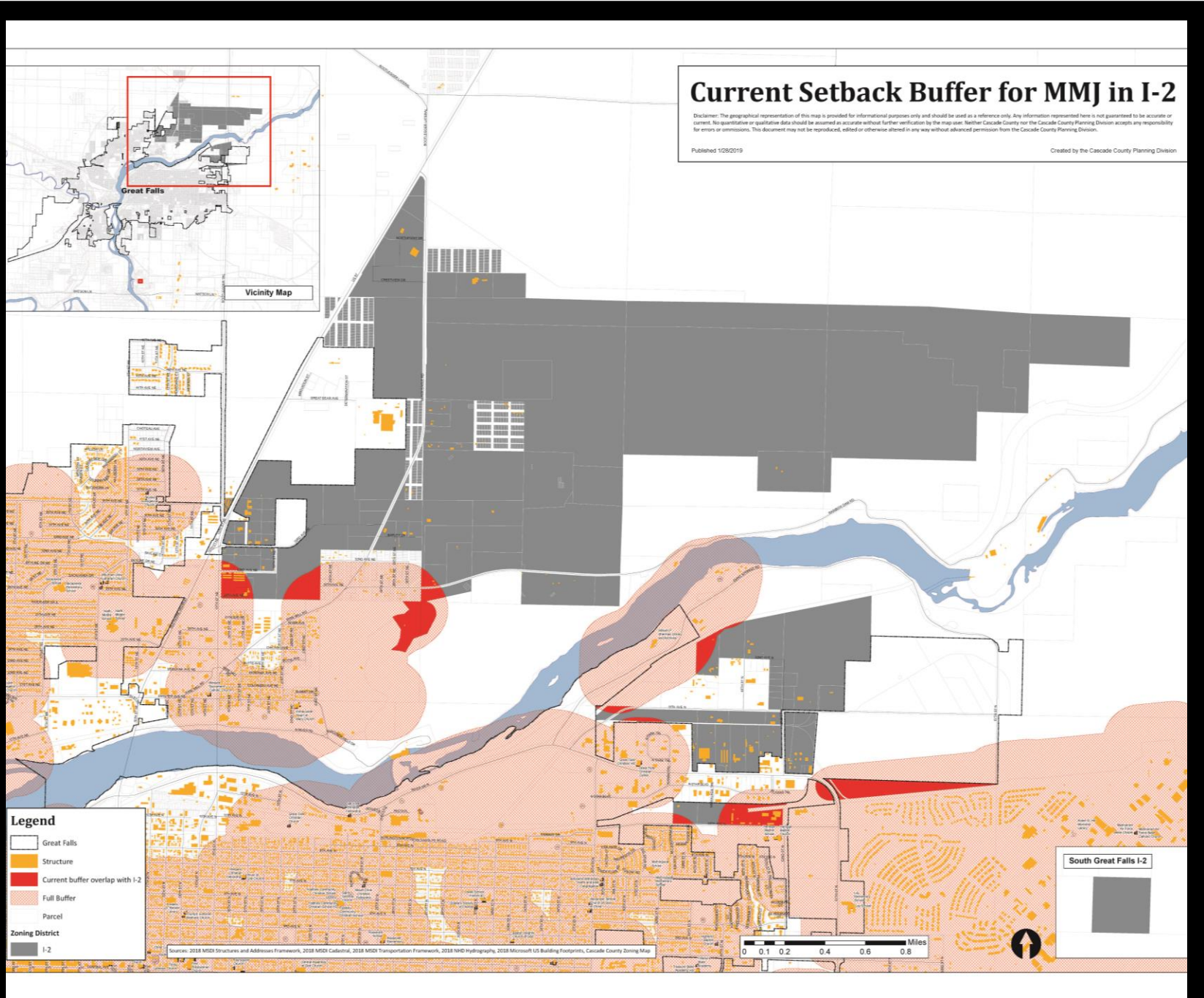
- The proposed registered premise shall not be within 500 feet of and on the same street as a building used exclusively as a worship facility or educational facility **that are present at the time of application**. The distance must be measured in a straight line from the center of the nearest entrance of the worship facility or educational facility to the nearest entrance of the licensee's premises.
- If the Planning Board's recommendations for expansion is accepted, § 8.22 should be deleted and should be included as a subsection under the "permitted principle use" for "Medical Marijuana Registered Premise" and " "Medical Marijuana Testing Facility" similar to "storage facilities," "quarry," "public or privately owned airport, landing area, or helipad," "motorized sports entertainment," "commercial propagation, boarding, grazing, or butchering of animals and fowl..." etc. to keep the regulations consistent and make it more user friendly.
- If only permitted in I-2, keep the buffer provision in § 8.22 .





1000-foot  
buffer





500-foot buffer

# Use Expansion

## Current Regulations

CCZR § 2 “Definitions” – Permissive Code: Any use not specifically permitted or otherwise provided for, is not permitted.

CCZR § 7.3.11 “Commercial District” – Uses Not Permitted (1) Medical Marijuana Provider

CCZR § 7.8.11 “Mixed Use District” – Uses Specifically Not Permitted: (1) Medical Marijuana Provider

CCZR § 7.4.2.1 “I-2 District” – Permitted Principal Uses: All NON-RESIDENTIAL uses not otherwise prohibited by law.

## Planning Department Proposed Changes

CCZR § 1.3 “Permissive Code” provision

Eliminated the call-outs prohibiting medical marijuana – as unnecessary and inconsistent with the rest of the regulation

Definitions proposed restricted medical marijuana to the Heavy Industrial District

## Planning Board Proposed Changes

Adopted CCZR § 1.3

Definitions proposed allow medical marijuana land uses into:  
Agricultural, Mixed Use 20, Commercial, Light Industrial and Heavy Industrial Districts



# Public Comment

Pro	Against
<ul style="list-style-type: none"><li>• <b>Easier Access for card holding patients:</b><ul style="list-style-type: none"><li>➤ <b>Allow medical marijuana store fronts in commercial zones so access for patients is easier and safer .</b></li></ul></li><li>• <b>Agricultural District</b><ul style="list-style-type: none"><li>➤ <b>Allow medical marijuana to be grown in the Agricultural District.</b></li></ul></li><li>• <b>Limited Access in I-2</b><ul style="list-style-type: none"><li>➤ <b>There are limited available or affordable sites in the Heavy Industrial District for medical marijuana store fronts. This limits their options within the county.</b></li></ul></li></ul>	<ul style="list-style-type: none"><li>• <b>Public Safety:</b><ul style="list-style-type: none"><li>➤ <b>Keeping medical marijuana store fronts in Heavy Industrial District to protect our children and community values.</b></li></ul></li><li>• <b>Status Quo:</b><ul style="list-style-type: none"><li>➤ <b>For keeping medical marijuana store fronts in Heavy Industrial District with the 1000 ft buffer.</b></li></ul></li></ul>

# CI-118 and I-190

**Constitutional Initiative 118:** will set the minimum legal age for marijuana at 21.

Full Text: <https://sosmt.gov/wp-content/uploads/CI-118.pdf>

Section 1. Article II, section 14, of the Montana Constitution is amended to read:

**Section 14. Adult Rights.**

A person 18 years of age or older is an adult for all purposes, except that the legislature or the people by initiative may establish the legal age for purchasing, consuming, or possessing alcoholic beverages and marijuana.

**Statutory Initiative 190:** “Montana Marijuana Regulation and Taxation Act” - legalizes, regulates, and taxes marijuana

Full Text: <https://sosmt.gov/wp-content/uploads/I-190.pdf>

“Registered premises”

“Testing Facility” same meaning as MCA 50-46-302.

Advertising prohibited, but a listing in a directory of the business is okay and a website that does not include prices or solicits consumers or out-of-state consumers

No amendments are proposed to the Montana Medical Marijuana Act (MCA 50-46-300, et seq.)

# I-190

- I-190 & Zoning: DPHHS may deny an adult-use provider license, adult-use marijuana-infused products provider license, adult-use dispensary license, or endorsement for manufacturing *if the applicant's proposed registered premises is situated within a zone of a locality where an activity related to the use of marijuana conflicts with an ordinance, a certified copy of which has been filed with the DPHHS.*
- I-190: DPHHS may deny a license for an adult-use provider, adult-use marijuana-infused products provider, or adult-use dispensary or an endorsement of manufacturing if the applicant's proposed registered premises: (i) is not approved by local building, health, or fire officials; or (ii) *is within 500 feet of and on the same street as a building used exclusively as a church, synagogue, or other place of worship or as a school or postsecondary school other than a commercially operated school, unless the locality allows for a reduced distance.* *This distance must be measured in a straight line from the center of the nearest entrance of the place of worship or school to the nearest entrance of the licensee's premises.*
- *I-190 prohibits a local government from exercising "any power to prohibit completely adult-use providers, adult-use marijuana-infused product providers, and adult-use dispensaries from being located within the jurisdiction of the local government except as allowed in [sections 1 through 36]."*
- **Taxation:** 20% of retail price
  - 4.125% Nongame wildlife account
  - 4.125% state park account
  - 4.125% trains and recreational facilities account
  - 37.125% credit of the FWP to be used for wildlife habitat
  - 10.5% state general fund
  - Remaining 40% in subaccount:
    - 10% DPHHS - Addiction treatment
    - 10% to be administered by the department of commerce for distribution to the local government representing the locality where the retail sales occurred
    - 10% VA
    - 10% DPHHS - Medicaid rate increases to fund wages for health care workers for Medicaid funded home & community health services for elderly and disabled persons

# Local Government Authority

- Enabling Statutes:
  - MCA 76-2-201: “County zoning authorized”
  - MCA 76-2-202: “...By establishing zoning regulations, the Board may regulate the erection, construction, reconstruction, alteration, repair, location, or use of buildings or structures or the use of land.”
- MT Medical Marijuana Act 50-46-328: Local government authority to regulate
  - (1) To protect the public health, safety, or welfare, a local government may by ordinance or resolution regulate a provider or marijuana-infused products provider that operates within the local government's jurisdictional area. The regulations may include but are not limited to inspections of registered premises and testing laboratories in order to ensure compliance with any public health, safety, and welfare requirements established by the department or the local government.
  - (2) A local government may adopt an ordinance or resolution prohibiting providers and marijuana-infused products providers from operating dispensaries or as storefront businesses.”
- I-190, Section 18: Local government authority to regulated
  - Cannot adopt ordinances or regulations that are “unduly burdensome”
  - Can request an election on whether to prohibit by ordinance adult-use dispensaries from being located within the jurisdiction of the local government by filing a petition. If obtain a majority of qualified electors in the county to vote to prohibit adult-use dispensaries, the county may not allow adult-use dispensaries to operate in the county.



# What land uses can we regulate?

- Growers
- Chemical Manufacturers and manufactures of marijuana-infused products
- Sellers - Dispensaries
- Testers - Testing Facilities



The background of the slide is a close-up photograph of green wheat stalks, slightly out of focus, creating a textured, natural backdrop. The text is overlaid on this image.

# Where do these land uses belong in order to protect public health, safety, or welfare?

- Should the use be a “permitted principle use” allowed with a Location/Conformance Permit in the designated zoning district(s)?

or

- Should the use go through the public hearing process as a Special Use Permit in some or all zoning districts to ensure any and all concerns are mitigated?